

3. The department is proposing through this notice to change the time period allowed for the development of an Individualized Plan For Employment (IPE) which is the planning process engaged in for the purpose of determining what particular services should be made available through the vocational rehabilitation program to a consumer of vocational rehabilitation services. It is also proposing to update the citation to the relevant federal vocational rehabilitation program provisions of the federal Code of Federal Regulations (CFR) incorporated by reference in the Montana vocational rehabilitation rule set, from the July 1, 2004 edition of the CFR to the July 1, 2006 edition.

The provision of ARM 37.30.102 proposed for amendment, incorporates by reference a certain specific policy, known as the Montana Vocational Rehabilitation Policy W – "Core Requirements of IPE or MVR Policy 3.6, that is published in the Montana Vocational Rehabilitation Policy Manual. The department is republishing that policy with a date of October 1, 2006 to include in the policy text a reduction in the time period for the IPE development after the date of eligibility from six months to 120 days.

The department is proposing the change based upon the direction of the Rehabilitation Services Administration (RSA), an administrative entity of the United States Department of Education's Office of Special Education and Rehabilitative Services. The department has determined that this requested change would be feasible and effective. The proposed change includes the opportunity upon mutual agreement of the counselor and the consumer for an extension of the time period by which to accommodate exigent circumstances.

The adoption of the proposed rule amendment would impact upon adoption those persons who are newly entering Montana vocational rehabilitation services who have yet to develop or are in the course of developing with their counselors an IPE. This rule change will not impact benefit level or service cost. Most IPEs are currently developed within 120 days of the determination of eligibility. Because of this and of opportunity for the consumer and counselor to extend the time period based on exigent circumstance, the proposed rule change is not expected to negatively impact consumers.

The department in considering the adoption of this differing time period determined that the only available recourse was to implement the change as directed by the federal Rehabilitation Services Administration. The vocational rehabilitation program is a collaborative federal and state program with governing direction as to administration and service delivery governed by federal statute, regulation, and policy. Federal direction is primarily in the form of the regulations and policy promulgated by RSA and compliance with that direction is necessary for the continued provision of those services to Montana citizens. Consequently, consideration of the retention of the status quo or of time periods other than that directed by RSA was not given consideration.

The proposed change as to the referenced edition of the CFR for purposes of rule

incorporation of the federal regulations is appropriate to maintain reference to the most current authority allowing persons to more readily access the relevant incorporated text. This incorporation does not involve substantive changes in service delivery to consumers since the regulations have remained unchanged from that earlier date.

4. Interested persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on February 9, 2007. Data, views, or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

5. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.

/s/ Cary Lund for
Rule Reviewer

/s/ Joan Miles
Director, Public Health and
Human Services

Certified to the Secretary of State January 2, 2007.